



October 26, 2021

Linda Penner

Chair, Board of State and Community Corrections

2590 Venture Oaks Way

Sacramento, CA 95833

Sent via electronic transmission

Re: Process for Evaluating the Suitability of Los Angeles County Juvenile Halls

Dear Chair Penner:

We write to you with three recommendations for ensuring a meaningfully transparent and valid process for determining the suitability of Los Angeles County's juvenile halls under Welfare and Institutions Code Section 209, subdivision (d).

Our organizations are part of a coalition that has monitored and advocated for improved outcomes at the BSCC since its inception in 2012. We prioritize engagement with youth and families most impacted by the justice system to help the BSCC advance its oversight and support of local correctional systems.

Recommendation 1: To ensure the Board has sufficient information to determine suitability, BSCC staff should assess, through relevant documentation, interviews, or other means, the facilities' compliance with the Title 15 *Minimum Standards for Juvenile Facilities* between October 1, 2021 and the date of final inspection.

Given the unprecedented nature of the BSCC’s finding of unsuitability on September 16, 2021, a comprehensive assessment by the Board is crucial to maintaining the integrity of the inspections process and ensuring that young people incarcerated in Los Angeles County are housed safely. The BSCC inspections staff should assess compliance based on all relevant documentation, interviews, or other means and should detail all instances of non-compliance that occurred between October 1, 2021—the date that Los Angeles County received written notice of the BSCC unsuitability finding—through the date of the staff’s final inspection. Los Angeles County has been on notice of the numerous violations in their juvenile halls for over eight months and any continued violations of minimum standards should be identified by inspections staff. Reviewing violations that have occurred since October 1, 2021 will allow the Board to assess any changes Los Angeles County has made and their effectiveness.

Recommendation 2: At least 72 hours before the November 18, 2021 Board meeting, the BSCC should make public the number of incidents of non-compliance, the dates on which these incidents occurred and details of the violations.

It is imperative that the BSCC commit to transparency in determining the suitability of Los Angeles County’s juvenile halls. At least 72 hours prior to the Board meeting, the Board should make public the information that will guide the Board’s decision regarding suitability. At a minimum, this information should include (i) the number of incidents of non-compliance, (ii) the dates on which the non-compliance occurred, and (iii) as many details as possible regarding the nature of the violation while protecting the identity of any youth involved. To the extent the Board reviews any additional information or documentation that is not related to specific violations, the Board should also describe or disclose such information or documentation. Providing this information at least 72 hours in advance of the Board meeting will enable members of the public to meaningfully inform the Board’s decision by providing valuable input.

Recommendation 3: The BSCC should find Los Angeles County’s juvenile halls unsuitable if they remain out of compliance with even one regulation, as required by statutory language.

In order for Los Angeles County juvenile halls to be considered suitable for the confinement of youth, these facilities must be in compliance with every regulation in the Title 15 *Minimum Standards for Juvenile Facilities*. The issues still under review concern critically important matters of health and protection from unlawful restraint and isolation. Under the law as written, if a facility is out of compliance with even one regulation, this necessitates a finding of unsuitability by the BSCC. A juvenile facility is “unsuitable for the confinement of minors if it is not in compliance with **one or**

more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections...” (Welf. & Inst. Code, § 209(d) [emphasis added]).

The same strict level of compliance is required in reviewing the results of the reinspection. There is no provision in the statute for “substantial compliance” or “*de minimis* non-compliance” and the BSCC cannot read such a standard into the statute.¹ As recognized by the BSCC during the September 16, 2021 Board meeting, the language is rigid in this instance and necessitates a black-and-white analysis of whether Los Angeles County’s juvenile halls are in compliance with each and every regulation in Title 15. If there were a more flexible “substantial compliance” standard, such a standard would be written into the statute. For example, § 14088.23 of the Welfare and Institutions Code specifies “substantial compliance” when describing a process for determining contractor compliance with the statute after notice of violations.² However, because § 209(d) of the Welfare and Institutions Code requires Los Angeles County’s juvenile halls to remedy the items of non-compliance that previously rendered these facilities unsuitable, being out of compliance with even one regulation should result in determining these facilities unsuitable for the confinement of youth.³

We offer the above recommendations with the hope of advancing our shared goals of ensuring the safety and well-being of the youth incarcerated in Los Angeles County. Please do not hesitate to

¹ Opinion No. 99-1214 from the Office of the Attorney General State of California, May 2, 2000 (<https://oag.ca.gov/system/files/opinions/pdfs/99-1214.pdf>): “In analyzing the terms of section 209 and related provisions of the statutory scheme, we rely upon well established principles of statutory interpretation. ‘In analyzing the terms of section 209 and related provisions of the statutory scheme, we rely upon well established principles of statutory interpretation.’ ‘When construing a statute, we must ‘ascertain the intent of the Legislature so as to effectuate the purpose of the law.’ [Citation.]’ (Wilcox v. Birtwhistle (1999) 21 Cal.4th 973, 977.) ‘Our first step [in determining the Legislature’s intent] is to scrutinize the actual words of the statute, giving them a plain and commonsense meaning. [Citations.]’ (People v. Valladolid (1996) 13 Cal.4th 590, 597; accord, California Teachers Assn. v. Governing Bd. of Rialto Unified School Dist. (1997) 14 Cal.4th 627, 633.) It is a ‘cardinal rule that a statute ‘... is to be interpreted by the language in which it is written, and courts are no more at liberty to add provisions to what is therein declared in definite language than they are to disregard any of its express provisions.’ [Citation.]’ (Wells Fargo Bank v. Superior Court (1991) 53 Cal.3d 1082, 1097.)”; *See also* West’s Ann.Cal.C.C.P. § 1858: “the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted.”

² West’s Ann.Cal.Welf. & Inst.Code § 14088.23: “**Substantial compliance** shall be achieved within 30 calendar days from the date of the submission of the notice of intent to comply by the contractor. . . If a contractor subject to notice to apply sanctions under subdivision (b) does not demonstrate appropriate corrective compliance within the 30-day corrective action period or does not submit a notice of intent to comply with the requirements specified in the notice required by subdivision (b), the department shall notify the contractor, in writing, of the effective date and terms of the sanction or sanctions applied pursuant to this section.” [emphasis added].

³ West’s Ann.Cal.Welf. & Inst.Code § 209(a)(4): Once an initial finding of unsuitability is made, “...commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the... board... finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.”

contact Aditi Sherikar (asherikar@childrensdefense.org) with any questions, concerns or requests for support.

Sincerely,

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All of Us or None, Riverside Chapter

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